

1 **TITLE III—OIL AND GAS**
2 **Subtitle A—Petroleum Reserve and**
3 **Home Heating Oil**

4 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**
5 **TEGIC PETROLEUM RESERVE AND OTHER**
6 **ENERGY PROGRAMS.**

7 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-
8 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-
9 icy and Conservation Act (42 U.S.C. 6211 et seq.) is
10 amended—

11 (1) by striking section 166 (42 U.S.C. 6246)
12 and inserting the following:

13 “AUTHORIZATION OF APPROPRIATIONS

14 “SEC. 166. There are authorized to be appropriated
15 to the Secretary such sums as may be necessary to carry
16 out this part and part D, to remain available until ex-
17 pended.”;

18 (2) by striking section 186 (42 U.S.C. 6250e);
19 and

20 (3) by striking part E (42 U.S.C. 6251; relat-
21 ing to the expiration of title I of the Act).

22 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
23 ICY AND CONSERVATION ACT.—Title II of the Energy



1 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
2 amended—

3 (1) by inserting before section 273 (42 U.S.C.
4 6283) the following:

5 **“PART C—SUMMER FILL AND FUEL BUDGETING**
6 **PROGRAMS”;**

7 (2) by striking section 273(e) (42 U.S.C.
8 6283(e); relating to the expiration of summer fill
9 and fuel budgeting programs); and

10 (3) by striking part D (42 U.S.C. 6285; relat-
11 ing to the expiration of title II of the Act).

12 (c) TECHNICAL AMENDMENTS.—The table of con-
13 tents for the Energy Policy and Conservation Act is
14 amended—

15 (1) by inserting after the items relating to part
16 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

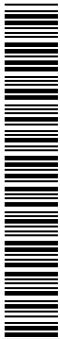
“Sec. 185. Exemptions.”;

17 (2) by amending the items relating to part C of
18 title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”; and

19 (3) by striking the items relating to part D of
20 title II.



1 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
2 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
3 and Conservation Act (42 U.S.C. 6250(b)(1)) is amended
4 by striking all after “increases” through to “mid-October
5 through March” and inserting “by more than 60 percent
6 over its 5-year rolling average for the months of mid-Octo-
7 ber through March (considered as a heating season aver-
8 age)”.

9 (e) FILL STRATEGIC PETROLEUM RESERVE TO CA-
10 PACITY.—The Secretary of Energy shall, as expeditiously
11 as practicable, acquire petroleum in amounts sufficient to
12 fill the Strategic Petroleum Reserve to the 1,000,000,000
13 barrel capacity authorized under section 154(a) of the En-
14 ergy Policy and Conservation Act (42 U.S.C. 6234(a)),
15 consistent with the provisions of sections 159 and 160 of
16 such Act (42 U.S.C. 6239, 6240).

17 **SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.**

18 Section 713 of the Energy Act of 2000 (42 U.S.C.
19 6201 note) is amended by striking “4” and inserting “9”.

20 **Subtitle B—Production Incentives**

21 **SEC. 320. LIQUEFACTION OR GASIFICATION NATURAL GAS**
22 **TERMINALS.**

23 (a) SCOPE OF NATURAL GAS ACT.—Section 1(b) of
24 the Natural Gas Act (15 U.S.C. 717(b)) is amended by
25 inserting “and to the importation or exportation of natural



1 gas in foreign commerce and to persons engaged in such
2 importation or exportation,” after “such transportation or
3 sale,”.

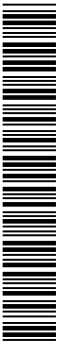
4 (b) DEFINITION.—Section 2 of the Natural Gas Act
5 (15 U.S.C. 717a) is amended by adding at the end the
6 following new paragraph:

7 “(11) ‘Liquefaction or gasification natural gas
8 terminal’ includes all facilities located onshore or in
9 State waters that are used to receive, unload, load,
10 store, transport, gasify, liquefy, or process natural
11 gas that is imported to the United States from a
12 foreign country, exported to a foreign country from
13 the United States, or transported in interstate com-
14 merce by waterborne tanker, but does not include—

15 “(A) waterborne tankers used to deliver
16 natural gas to or from any such facility; or

17 “(B) any pipeline or storage facility sub-
18 ject to the jurisdiction of the Commission under
19 section 7.”.

20 (c) AUTHORIZATION FOR CONSTRUCTION, EXPAN-
21 SION, OR OPERATION OF LIQUEFACTION OR GASIFI-
22 CATION NATURAL GAS TERMINALS.—(1) The title for sec-
23 tion 3 of the Natural Gas Act (15 U.S.C. 717b) is amend-
24 ed by inserting “; LIQUEFACTION OR GASIFICATION NAT-



1 URAL GAS TERMINALS” after “EXPORTATION OR IMPORTA-
2 TION OF NATURAL GAS”.

3 (2) Section 3 of the Natural Gas Act (15 U.S.C.
4 717b) is amended by adding at the end the following:

5 “(d) AUTHORIZATION FOR CONSTRUCTION, EXPAN-
6 SION, OR OPERATION OF LIQUEFACTION OR GASIFI-
7 CATION NATURAL GAS TERMINALS.—

8 “(1) COMMISSION AUTHORIZATION RE-
9 QUIRED.—No person shall construct, expand, or op-
10 erate a liquefaction or gasification natural gas ter-
11 minal without an order from the Commission au-
12 thorizing such person to do so.

13 “(2) AUTHORIZATION PROCEDURES.—

14 “(A) NOTICE AND HEARING.—Upon the
15 filing of any application to construct, expand,
16 or operate a liquefaction or gasification natural
17 gas terminal, the Commission shall—

18 “(i) set the matter for hearing;

19 “(ii) give reasonable notice of the
20 hearing to all interested persons, including
21 the State commission of the State in which
22 the liquefaction or gasification natural gas
23 terminal is located;

24 “(iii) decide the matter in accordance
25 with this subsection; and



1 “(iv) issue or deny the appropriate
2 order accordingly.

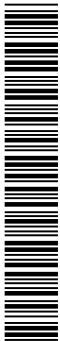
3 “(B) DESIGNATION AS LEAD AGENCY.—

4 “(i) IN GENERAL.—The Commission
5 shall act as the lead agency for the pur-
6 poses of coordinating all applicable Federal
7 authorizations and for the purposes of
8 complying with the National Environ-
9 mental Policy Act of 1969 (42 U.S.C.
10 4312 et seq.) for a liquefaction or gasifi-
11 cation natural gas terminal.

12 “(ii) OTHER AGENCIES.—Each Fed-
13 eral agency considering an aspect of the
14 construction, expansion, or operation of a
15 liquefaction or gasification natural gas ter-
16 minal shall cooperate with the Commission
17 and comply with the deadlines established
18 by the Commission.

19 “(C) SCHEDULE.—

20 “(i) COMMISSION AUTHORITY TO SET
21 SCHEDULE.—The Commission shall estab-
22 lish a schedule for all Federal and State
23 administrative proceedings required under
24 authority of Federal law to construct, ex-
25 pand, or operate a liquefaction or gasifi-



1 cation natural gas terminal. In establishing
2 the schedule, the Commission shall—

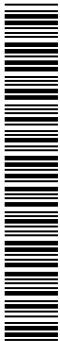
3 “(I) ensure expeditious comple-
4 tion of all such proceedings; and

5 “(II) accommodate the applicable
6 schedules established by Federal law
7 for such proceedings.

8 “(ii) FAILURE TO MEET SCHEDULE.—
9 If a Federal or State administrative agency
10 does not complete a proceeding for an ap-
11 proval that is required before a person may
12 construct, expand, or operate the lique-
13 faction or gasification natural gas ter-
14 minal, in accordance with the schedule es-
15 tablished by the Commission under this
16 subparagraph, and if—

17 “(I) a determination has been
18 made by the Court pursuant to sec-
19 tion 19(d) that such delay is unrea-
20 sonable; and

21 “(II) the agency has failed to act
22 on any remand by the Court within
23 the deadline set by the Court,
24 that approval may be conclusively pre-
25 sumed by the Commission.



1 “(D) EXCLUSIVE RECORD.—The Commis-
2 sion shall, with the cooperation of Federal and
3 State administrative agencies and officials,
4 maintain a complete consolidated record of all
5 decisions made or actions taken by the Commis-
6 sion or by a Federal administrative agency or
7 officer (or State administrative agency or offi-
8 cer acting under delegated Federal authority)
9 with respect to the construction, expansion, or
10 operation of a liquefaction or gasification nat-
11 ural gas terminal. Such record shall be the ex-
12 clusive record for any Federal administrative
13 proceeding that is an appeal or review of any
14 such decision made or action taken.

15 “(E) STATE AND LOCAL SAFETY CONSID-
16 ERATIONS.—

17 “(i) IN GENERAL.—The Commission
18 shall consult with the State commission of
19 the State in which the liquefaction or gas-
20 ification natural gas terminal is located re-
21 garding State and local safety consider-
22 ations prior to issuing an order pursuant
23 to this subsection and consistent with the
24 schedule established under subparagraph
25 (C).



1 “(ii) STATE SAFETY INSPECTIONS.—

2 The State commission of the State in
3 which a liquefaction or gasification natural
4 gas terminal is located may, after the ter-
5 minal is operational, conduct safety inspec-
6 tions with respect to the liquefaction or
7 gasification natural gas terminal if—

8 “(I) the State commission pro-
9 vides written notice to the Commis-
10 sion of its intention to do so; and

11 “(II) the inspections will be car-
12 ried out in conformance with Federal
13 regulations and guidelines.

14 Enforcement of any safety violation discov-
15 ered by a State commission pursuant to
16 this clause shall be carried out by Federal
17 officials. The Commission shall take appro-
18 priate action in response to a report of a
19 violation not later than 90 days after re-
20 ceiving such report.

21 “(iii) STATE AND LOCAL SAFETY CON-
22 siderations.—For the purposes of this
23 subparagraph, State and local safety con-
24 siderations include—



1 “(I) the kind and use of the facil-
2 ity;

3 “(II) the existing and projected
4 population and demographic charac-
5 teristics of the location;

6 “(III) the existing and proposed
7 land use near the location;

8 “(IV) the natural and physical
9 aspects of the location;

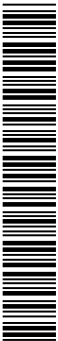
10 “(V) the medical, law enforce-
11 ment, and fire prevention capabilities
12 near the location that can respond at
13 the facility; and

14 “(VI) the feasibility of remote
15 siting.

16 “(3) ISSUANCE OF COMMISSION ORDER.—

17 “(A) IN GENERAL.—The Commission shall
18 issue an order authorizing, in whole or in part,
19 the construction, expansion, or operation cov-
20 ered by the application to any qualified
21 applicant—

22 “(i) unless the Commission finds such
23 actions or operations will not be consistent
24 with the public interest; and



1 “(ii) if the Commission has found that
2 the applicant is—

3 “(I) able and willing to carry out
4 the actions and operations proposed;
5 and

6 “(II) willing to conform to the
7 provisions of this Act and any require-
8 ments, rules, and regulations of the
9 Commission set forth under this Act.

10 “(B) TERMS AND CONDITIONS.—The Com-
11 mission may by its order grant an application,
12 in whole or in part, with such modification and
13 upon such terms and conditions as the Commis-
14 sion may find necessary or appropriate.

15 “(C) LIMITATIONS ON TERMS AND CONDI-
16 TIONS TO COMMISSION ORDER.—

17 “(i) IN GENERAL.—Any Commission
18 order issued pursuant to this subsection
19 before January 1, 2011, shall not be condi-
20 tioned on—

21 “(I) a requirement that the lique-
22 faction or gasification natural gas ter-
23 minal offer service to persons other
24 than the person, or any affiliate there-
25 of, securing the order; or



1 “(II) any regulation of the lique-
2 faction or gasification natural gas ter-
3 minal’s rates, charges, terms, or con-
4 ditions of service.

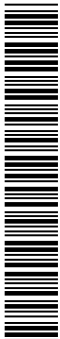
5 “(ii) INAPPLICABLE TO TERMINAL
6 EXIT PIPELINE.—Clause (i) shall not apply
7 to any pipeline subject to the jurisdiction
8 of the Commission under section 7 exiting
9 a liquefaction or gasification natural gas
10 terminal.

11 “(iii) EXPANSION OF REGULATED
12 TERMINAL.—An order issued under this
13 paragraph that relates to an expansion of
14 an existing liquefaction or gasification nat-
15 ural gas terminal, where any portion of the
16 existing terminal continues to be subject to
17 Commission regulation of rates, charges,
18 terms, or conditions of service, may not re-
19 sult in—

20 “(I) subsidization of the expan-
21 sion by regulated terminal users;

22 “(II) degradation of service to
23 the regulated terminal users; or

24 “(III) undue discrimination
25 against the regulated terminal users.



1 “(iv) EXPIRATION.—This subpara-
2 graph shall cease to have effect on Janu-
3 ary 1, 2021.

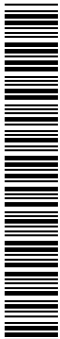
4 “(4) DEFINITION.—For the purposes of this
5 subsection, the term ‘Federal authorization’ means
6 any authorization required under Federal law in
7 order to construct, expand, or operate a liquefaction
8 or gasification natural gas terminal, including such
9 permits, special use authorizations, certifications,
10 opinions, or other approvals as may be required,
11 whether issued by a Federal or State agency.”.

12 (d) JUDICIAL REVIEW.—Section 19 of the Natural
13 Gas Act (15 U.S.C. 717r) is amended by adding at the
14 end the following:

15 “(d) JUDICIAL REVIEW.—

16 “(1) IN GENERAL.—The United States Court of
17 Appeals for the District of Columbia Circuit shall
18 have original and exclusive jurisdiction over any civil
19 action—

20 “(A) for review of any order, action, or
21 failure to act of any Federal or State adminis-
22 trative agency to issue, condition, or deny any
23 permit, license, concurrence, or approval re-
24 quired under Federal law for the construction,



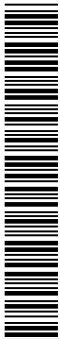
1 expansion, or operation of a liquefaction or gas-
2 ification natural gas terminal;

3 “(B) alleging unreasonable delay, in meet-
4 ing a schedule established under section
5 3(d)(2)(C) or otherwise, by any Federal or
6 State administrative agency in entering an
7 order or taking other action described in sub-
8 paragraph (A); or

9 “(C) challenging any decision made or ac-
10 tion taken by the Commission under section
11 3(d).

12 “(2) COMMISSION ACTION.—For any action de-
13 scribed in this subsection, the Commission shall file
14 with the Court the consolidated record maintained
15 under section 3(d)(2)(D).

16 “(3) COURT ACTION.—If the Court finds under
17 paragraph (1)(A) or (B) that an order, action, fail-
18 ure to act, or delay is inconsistent with applicable
19 Federal law, and would prevent the construction, ex-
20 pansion, or operation of a liquefaction or gasification
21 natural gas terminal, the order or action shall be
22 deemed to have been issued or taken, subject to any
23 conditions established by the Federal or State ad-
24 ministrative agency upon remand from the Court,
25 such conditions to be consistent with the order of



1 the Court. If the Court remands the order or action
2 to the Federal or State agency, the Court shall set
3 a reasonable deadline for the agency to act on re-
4 mand.

5 “(4) UNREASONABLE DELAY.—For the pur-
6 poses of paragraph (1)(B), the failure of an agency
7 to issue a permit, license, concurrence, or approval
8 within the later of—

9 “(A) 1 year after the date of filing of an
10 application for the permit, license, concurrence,
11 or approval; or

12 “(B) 60 days after the date of issuance of
13 the order under section 3(d),

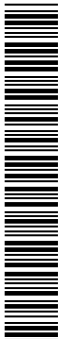
14 shall be considered unreasonable delay unless the
15 Court, for good cause shown, determines otherwise.

16 “(5) EXPEDITED REVIEW.—The Court shall set
17 any action brought under this subsection for expe-
18 dited consideration.”.

19 **SEC. 327. HYDRAULIC FRACTURING.**

20 Paragraph (1) of section 1421(d) of the Safe Drink-
21 ing Water Act (42 U.S.C. 300h(d)) is amended to read
22 as follows:

23 “(1) UNDERGROUND INJECTION.—The term
24 ‘underground injection’—



1 “(A) means the subsurface emplacement of
2 fluids by well injection; and

3 “(B) excludes—

4 “(i) the underground injection of nat-
5 ural gas for purposes of storage; and

6 “(ii) the underground injection of
7 fluids or propping agents pursuant to hy-
8 draulic fracturing operations related to oil
9 or gas production activities.”.

10 **SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION**

11 **DEFINED.**

12 Section 502 of the Federal Water Pollution Control
13 Act (33 U.S.C. 1362) is amended by adding at the end
14 the following:

15 “(24) OIL AND GAS EXPLORATION AND PRO-
16 Duction.—The term ‘oil and gas exploration, pro-
17 duction, processing, or treatment operations or
18 transmission facilities’ means all field activities or
19 operations associated with exploration, production,
20 processing, or treatment operations, or transmission
21 facilities, including activities necessary to prepare a
22 site for drilling and for the movement and placement
23 of drilling equipment, whether or not such field ac-
24 tivities or operations may be considered to be con-
25 struction activities.”.



1 **SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.**

2 (a) STORAGE ON THE OUTER CONTINENTAL
3 SHELF.—Section 5(a)(5) of the Outer Continental Shelf
4 Lands Act (43 U.S.C. 1334(a)(5)) is amended by insert-
5 ing “from any source” after “oil and gas”.

6 (b) DEEPWATER PROJECTS.—Section 6 of the Deep-
7 water Port Act of 1974 (33 U.S.C. 1505) is amended by
8 adding at the end the following:

9 “(d) RELIANCE ON ACTIVITIES OF OTHER AGEN-
10 CIES.—In fulfilling the requirements of section 5(f)—

11 “(1) to the extent that other Federal agencies
12 have prepared environmental impact statements, are
13 conducting studies, or are monitoring the affected
14 human, marine, or coastal environment, the Sec-
15 retary may use the information derived from those
16 activities in lieu of directly conducting such activi-
17 ties; and

18 “(2) the Secretary may use information ob-
19 tained from any State or local government or from
20 any person.”.

21 (c) NATURAL GAS DEFINED.—Section 3(13) of the
22 Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is
23 amended to read as follows:

24 “(13) natural gas means—

25 “(A) natural gas unmixed; or

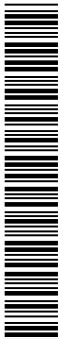


1 “(B) any mixture of natural or artificial
2 gas, including compressed or liquefied natural
3 gas, natural gas liquids, liquefied petroleum
4 gas, and condensate recovered from natural
5 gas;”.

6 **SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUC-**
7 **TION OR OFFSHORE MINERAL DEVELOP-**
8 **MENT PROJECTS.**

9 (a) AGENCY OF RECORD, PIPELINE CONSTRUCTION
10 PROJECTS.—Any Federal administrative agency pro-
11 ceeding that is an appeal or review under section 319 of
12 the Coastal Zone Management Act of 1972 (16 U.S.C.
13 1465), as amended by this Act, related to Federal author-
14 ity for an interstate natural gas pipeline construction
15 project, including construction of natural gas storage and
16 liquefied natural gas facilities, shall use as its exclusive
17 record for all purposes the record compiled by the Federal
18 Energy Regulatory Commission pursuant to the Commis-
19 sion’s proceeding under sections 3 and 7 of the Natural
20 Gas Act (15 U.S.C. 717b, 717f).

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that all Federal and State agencies with jurisdiction
23 over interstate natural gas pipeline construction activities
24 should coordinate their proceedings within the timeframes
25 established by the Federal Energy Regulatory Commission



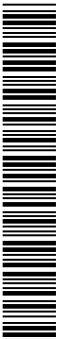
1 when the Commission is acting under sections 3 and 7
2 of the Natural Gas Act (15 U.S.C. 717b, 717f) to deter-
3 mine whether a certificate of public convenience and neces-
4 sity should be issued for a proposed interstate natural gas
5 pipeline.

6 (c) AGENCY OF RECORD, OFFSHORE MINERAL DE-
7 VELOPMENT PROJECTS.—Any Federal administrative
8 agency proceeding that is an appeal or review under sec-
9 tion 319 of the Coastal Zone Management Act of 1972
10 (16 U.S.C. 1465), as amended by this Act, related to Fed-
11 eral authority for the permitting, approval, or other au-
12 thorization of energy projects, including projects to ex-
13 plore, develop, or produce mineral resources in or under-
14 lying the outer Continental Shelf shall use as its exclusive
15 record for all purposes (except for the filing of pleadings)
16 the record compiled by the relevant Federal permitting
17 agency.

18 **SEC. 332. NATURAL GAS MARKET REFORM.**

19 (a) CLARIFICATION OF EXISTING CFTC AUTHOR-
20 ITY.—

21 (1) FALSE REPORTING.—Section 9(a)(2) of the
22 Commodity Exchange Act (7 U.S.C. 13(a)(2)) is
23 amended by striking “false or misleading or know-
24 ingly inaccurate reports” and inserting “knowingly

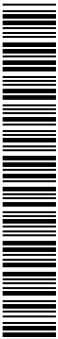


1 false or knowingly misleading or knowingly inac-
2 curate reports”.

3 (2) COMMISSION ADMINISTRATIVE AND CIVIL
4 AUTHORITY.—Section 9 of the Commodity Exchange
5 Act (7 U.S.C. 13) is amended by redesignating sub-
6 section (f) as subsection (e), and adding:

7 “(f) COMMISSION ADMINISTRATIVE AND CIVIL AU-
8 THORITY.—The Commission may bring administrative or
9 civil actions as provided in this Act against any person
10 for a violation of any provision of this section including,
11 but not limited to, false reporting under subsection
12 (a)(2).”.

13 (3) EFFECT OF AMENDMENTS.—The amend-
14 ments made by paragraphs (1) and (2) restate, with-
15 out substantive change, existing burden of proof pro-
16 visions and existing Commission civil enforcement
17 authority, respectively. These clarifying changes do
18 not alter any existing burden of proof or grant any
19 new statutory authority. The provisions of this sec-
20 tion, as restated herein, continue to apply to any ac-
21 tion pending on or commenced after the date of en-
22 actment of this Act for any act, omission, or viola-
23 tion occurring before, on, or after, such date of en-
24 actment.



1 (b) FRAUD AUTHORITY.—Section 4b of the Com-
2 modity Exchange Act (7 U.S.C. 6b) is amended—

3 (1) by redesignating subsections (b) and (c) as
4 subsections (c) and (d), respectively; and

5 (2) by striking subsection (a) and inserting the
6 following:

7 “(a) It shall be unlawful—

8 “(1) for any person, in or in connection with
9 any order to make, or the making of, any contract
10 of sale of any commodity for future delivery or in
11 interstate commerce, that is made, or to be made, on
12 or subject to the rules of a designated contract mar-
13 ket, for or on behalf of any other person; or

14 “(2) for any person, in or in connection with
15 any order to make, or the making of, any contract
16 of sale of any commodity for future delivery, or
17 other agreement, contract, or transaction subject to
18 section 5a(g) (1) and (2) of this Act, that is made,
19 or to be made, for or on behalf of, or with, any other
20 person, other than on or subject to the rules of a
21 designated contract market—

22 “(A) to cheat or defraud or attempt to
23 cheat or defraud such other person;

24 “(B) willfully to make or cause to be made
25 to such other person any false report or state-

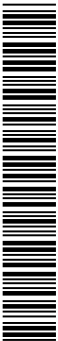


1 ment or willfully to enter or cause to be entered
2 for such other person any false record;

3 “(C) willfully to deceive or attempt to de-
4 ceive such other person by any means whatso-
5 ever in regard to any order or contract or the
6 disposition or execution of any order or con-
7 tract, or in regard to any act of agency per-
8 formed, with respect to any order or contract
9 for or, in the case of subsection (a)(2), with
10 such other person; or

11 “(D)(i) to bucket an order if such order is
12 either represented by such person as an order
13 to be executed, or required to be executed, on
14 or subject to the rules of a designated contract
15 market; or

16 “(ii) to fill an order by offset against the
17 order or orders of any other person, or willfully
18 and knowingly and without the prior consent of
19 such other person to become the buyer in re-
20 spect to any selling order of such other person,
21 or become the seller in respect to any buying
22 order of such other person, if such order is ei-
23 ther represented by such person as an order to
24 be executed, or required to be executed, on or



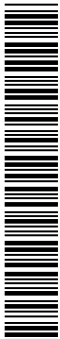
1 subject to the rules of a designated contract
2 market.

3 “(b) Subsection (a)(2) shall not obligate any person,
4 in connection with a transaction in a contract of sale of
5 a commodity for future delivery, or other agreement, con-
6 tract or transaction subject to section 5a(g) (1) and (2)
7 of this Act, with another person, to disclose to such other
8 person nonpublic information that may be material to the
9 market price of such commodity or transaction, except as
10 necessary to make any statement made to such other per-
11 son in connection with such transaction, not misleading
12 in any material respect.”.

13 (c) JURISDICTION OF THE CFTC.—The Natural Gas
14 Act (15 U.S.C. 717 et seq.) is amended by adding at the
15 end:

16 **“SEC. 26. JURISDICTION.**

17 “This Act shall not affect the exclusive jurisdiction
18 of the Commodity Futures Trading Commission with re-
19 spect to accounts, agreements, contracts, or transactions
20 in commodities under the Commodity Exchange Act (7
21 U.S.C. 1 et seq.). Any request for information by the Com-
22 mission to a designated contract market, registered deriva-
23 tives transaction execution facility, board of trade, ex-
24 change, or market involving accounts, agreements, con-
25 tracts, or transactions in commodities (including natural



1 gas, electricity, and other energy commodities) within the
2 exclusive jurisdiction of the Commodity Futures Trading
3 Commission shall be directed to the Commodity Futures
4 Trading Commission, which shall cooperate in responding
5 to any information request by the Commission.”.

6 (d) INCREASED PENALTIES.—Section 21 of the Nat-
7 ural Gas Act (15 U.S.C. 717t) is amended—

8 (1) in subsection (a)—

9 (A) by striking “\$5,000” and inserting
10 “\$1,000,000”; and

11 (B) by striking “two years” and inserting
12 “5 years”; and

13 (2) in subsection (b), by striking “\$500” and
14 inserting “\$50,000”.

15 **SEC. 333. NATURAL GAS MARKET TRANSPARENCY.**

16 The Natural Gas Act (15 U.S.C 717 et seq.) is
17 amended—

18 (1) by redesignating section 24 as section 25;

19 and

20 (2) by inserting after section 23 the following:

21 **“SEC. 24. NATURAL GAS MARKET TRANSPARENCY.**

22 “(a) AUTHORIZATION.—(1) Not later than 180 days
23 after the date of enactment of the Energy Policy Act of
24 2005, the Federal Energy Regulatory Commission shall
25 issue rules directing all entities subject to the Commis-



1 sion’s jurisdiction as provided under this Act to timely re-
2 port information about the availability and prices of nat-
3 ural gas sold at wholesale in interstate commerce to the
4 Commission and price publishers.

5 “(2) The Commission shall evaluate the data for ade-
6 quate price transparency and accuracy.

7 “(3) Rules issued under this subsection requiring the
8 reporting of information to the Commission that may be-
9 come publicly available shall be limited to aggregate data
10 and transaction-specific data that are otherwise required
11 by the Commission to be made public.

12 “(4) In exercising its authority under this section, the
13 Commission shall not—

14 “(A) compete with, or displace from the market
15 place, any price publisher; or

16 “(B) regulate price publishers or impose any re-
17 quirements on the publication of information.

18 “(b) TIMELY ENFORCEMENT.—No person shall be
19 subject to any penalty under this section with respect to
20 a violation occurring more than 3 years before the date
21 on which the Federal Energy Regulatory Commission
22 seeks to assess a penalty.

23 “(c) LIMITATION ON COMMISSION AUTHORITY.—(1)
24 The Commission shall not condition access to interstate



1 pipeline transportation upon the reporting requirements
2 authorized under this section.

3 “(2) Natural gas sales by a producer that are attrib-
4 utable to volumes of natural gas produced by such pro-
5 ducer shall not be subject to the rules issued pursuant to
6 this section.

7 “(3) The Commission shall not require natural gas
8 producers, processors, or users who have a de minimis
9 market presence to participate in the reporting require-
10 ments provided in this section.”.

11 **Subtitle C—Access to Federal Land**

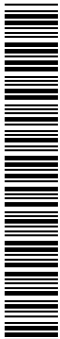
12 **SEC. 344. CONSULTATION REGARDING OIL AND GAS LEAS-** 13 **ING ON PUBLIC LAND.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of the Interior
16 and the Secretary of Agriculture shall enter into a memo-
17 randum of understanding regarding oil and gas leasing
18 on—

19 (1) public lands under the jurisdiction of the
20 Secretary of the Interior; and

21 (2) National Forest System lands under the ju-
22 risdiction of the Secretary of Agriculture.

23 (b) CONTENTS.—The memorandum of understanding
24 shall include provisions that—



1 (1) establish administrative procedures and
2 lines of authority that ensure timely processing of oil
3 and gas lease applications, surface use plans of oper-
4 ation, and applications for permits to drill, including
5 steps for processing surface use plans and applica-
6 tions for permits to drill consistent with the
7 timelines established by the amendment made by
8 section 348;

9 (2) eliminate duplication of effort by providing
10 for coordination of planning and environmental com-
11 pliance efforts; and

12 (3) ensure that lease stipulations are—

13 (A) applied consistently;

14 (B) coordinated between agencies; and

15 (C) only as restrictive as necessary to pro-
16 tect the resource for which the stipulations are
17 applied.

18 (c) DATA RETRIEVAL SYSTEM.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary of
21 the Interior and the Secretary of Agriculture shall
22 establish a joint data retrieval system that is capable
23 of—

24 (A) tracking applications and formal re-
25 quests made in accordance with procedures of



1 the Federal onshore oil and gas leasing pro-
2 gram; and

3 (B) providing information regarding the
4 status of the applications and requests within
5 the Department of the Interior and the Depart-
6 ment of Agriculture.

7 (2) RESOURCE MAPPING.—Not later than 2
8 years after the date of enactment of this Act, the
9 Secretary of the Interior and the Secretary of Agri-
10 culture shall establish a joint Geographic Informa-
11 tion System mapping system for use in—

12 (A) tracking surface resource values to aid
13 in resource management; and

14 (B) processing surface use plans of oper-
15 ation and applications for permits to drill.

16 **SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; AC-**
17 **TIONS CONCERNING REGULATIONS THAT**
18 **SIGNIFICANTLY AFFECT ENERGY SUPPLY,**
19 **DISTRIBUTION, OR USE.**

20 (a) REQUIREMENT.—The head of each Federal agen-
21 cy shall require that before the Federal agency takes any
22 action that could have a significant adverse effect on the
23 supply of domestic energy resources from Federal public
24 land, the Federal agency taking the action shall comply
25 with Executive Order No. 13211 (42 U.S.C. 13201 note).



1 (b) GUIDANCE.—Not later than 180 days after the
2 date of enactment of this Act, the Secretary of Energy
3 shall publish guidance for purposes of this section describ-
4 ing what constitutes a significant adverse effect on the
5 supply of domestic energy resources under Executive
6 Order No. 13211 (42 U.S.C. 13201 note).

7 (c) MEMORANDUM OF UNDERSTANDING.—The Sec-
8 retary of the Interior and the Secretary of Agriculture
9 shall include in the memorandum of understanding under
10 section 344 provisions for implementing subsection (a) of
11 this section.

12 **SEC. 348. DEADLINE FOR CONSIDERATION OF APPLICA-**
13 **TIONS FOR PERMITS.**

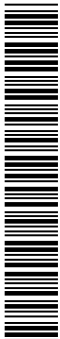
14 Section 17 of the Mineral Leasing Act (30 U.S.C.
15 226) is amended by adding at the end the following:

16 “(p) DEADLINES FOR CONSIDERATION OF APPLICA-
17 TIONS FOR PERMITS.—

18 “(1) IN GENERAL.—Not later than 10 days
19 after the date on which the Secretary receives an ap-
20 plication for any permit to drill, the Secretary
21 shall—

22 “(A) notify the applicant that the applica-
23 tion is complete; or

24 “(B) notify the applicant that information
25 is missing and specify any information that is



1 required to be submitted for the application to
2 be complete.

3 “(2) ISSUANCE OR DEFERRAL.—Not later than
4 30 days after the applicant for a permit has sub-
5 mitted a complete application, the Secretary shall—

6 “(A) issue the permit; or

7 “(B)(i) defer decision on the permit; and

8 “(ii) provide to the applicant a notice that
9 specifies any steps that the applicant could take
10 for the permit to be issued.

11 “(3) REQUIREMENTS FOR DEFERRED APPLICA-
12 TIONS.—

13 “(A) IN GENERAL.—If the Secretary pro-
14 vides notice under paragraph (2)(B)(ii), the ap-
15 plicant shall have a period of 2 years from the
16 date of receipt of the notice in which to com-
17 plete all requirements specified by the Sec-
18 retary, including providing information needed
19 for compliance with the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

21 “(B) ISSUANCE OF DECISION ON PER-
22 MIT.—If the applicant completes the require-
23 ments within the period specified in subpara-
24 graph (A), the Secretary shall issue a decision
25 on the permit not later than 10 days after the



1 date of completion of the requirements de-
2 scribed in subparagraph (A).

3 “(C) DENIAL OF PERMIT.—If the appli-
4 cant does not complete the requirements within
5 the period specified in subparagraph (A), the
6 Secretary shall deny the permit.

7 “(q) REPORT.—On a quarterly basis, each field office
8 of the Bureau of Land Management and the Forest Serv-
9 ice shall transmit to the Secretary of the Interior or the
10 Secretary of Agriculture, respectively, a report that—

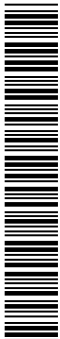
11 “(1) specifies the number of applications for
12 permits to drill received by the field office in the pe-
13 riod covered by the report; and

14 “(2) describes how each of the applications was
15 disposed of by the field office.”.

16 **SEC. 349. CLARIFICATION OF FAIR MARKET RENTAL VALUE**
17 **DETERMINATIONS FOR PUBLIC LAND AND**
18 **FOREST SERVICE RIGHTS-OF-WAY.**

19 (a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL
20 LAND POLICY AND MANAGEMENT ACT OF 1976.—Section
21 504 of the Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1764) is amended by adding at the end
23 the following:

24 “(k) DETERMINATION OF FAIR MARKET VALUE OF
25 LINEAR RIGHTS-OF-WAY.—



1 “(1) IN GENERAL.—Effective beginning on the
2 date of the issuance of the rules required by para-
3 graph (2), for purposes of subsection (g), the Sec-
4 retary concerned shall determine the fair market
5 value for the use of land encumbered by a linear
6 right-of-way granted, issued, or renewed under this
7 title using the valuation method described in para-
8 graphs (2), (3), and (4).

9 “(2) REVISIONS.—Not later than 1 year after
10 the date of enactment of this subsection—

11 “(A) the Secretary of the Interior shall
12 amend section 2803.1–2 of title 43, Code of
13 Federal Regulations, as in effect on the date of
14 enactment of this subsection, to revise the per
15 acre rental fee zone value schedule by State,
16 county, and type of linear right-of-way use to
17 reflect current values of land in each zone; and

18 “(B) the Secretary of Agriculture shall
19 make the same revision for linear rights-of-way
20 granted, issued, or renewed under this title on
21 National Forest System land.

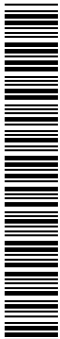
22 “(3) UPDATES.—The Secretary concerned shall
23 annually update the schedule revised under para-
24 graph (2) by multiplying the current year’s rental
25 per acre by the annual change, second quarter to



1 second quarter (June 30 to June 30) in the Gross
2 National Product Implicit Price Deflator Index pub-
3 lished in the Survey of Current Business of the De-
4 partment of Commerce, Bureau of Economic Anal-
5 ysis.

6 “(4) REVIEW.—If the cumulative change in the
7 index referred to in paragraph (3) exceeds 30 per-
8 cent, or the change in the 3-year average of the 1-
9 year Treasury interest rate used to determine per
10 acre rental fee zone values exceeds plus or minus 50
11 percent, the Secretary concerned shall conduct a re-
12 view of the zones and rental per acre figures to de-
13 termine whether the value of Federal land has dif-
14 fered sufficiently from the index referred to in para-
15 graph (3) to warrant a revision in the base zones
16 and rental per acre figures. If, as a result of the re-
17 view, the Secretary concerned determines that such
18 a revision is warranted, the Secretary concerned
19 shall revise the base zones and rental per acre fig-
20 ures accordingly. Any revision of base zones and
21 rental per acre figure shall only affect lease rental
22 rates at inception or renewal.”.

23 (b) RIGHTS-OF-WAY UNDER MINERAL LEASING
24 ACT.—Section 28(l) of the Mineral Leasing Act (30
25 U.S.C. 185(l)) is amended by inserting before the period



1 at the end the following: “using the valuation method de-
2 scribed in section 2803.1–2 of title 43, Code of Federal
3 Regulations, as revised in accordance with section 504(k)
4 of the Federal Land Policy and Management Act of 1976
5 (43 U.S.C. 1764(k))”.

6 **SEC. 350. ENERGY FACILITY RIGHTS-OF-WAY AND COR-**
7 **RIDORS ON FEDERAL LAND.**

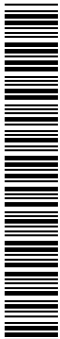
8 (a) REPORT TO CONGRESS.—

9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act, the Secretary of
11 Agriculture and the Secretary of the Interior, in con-
12 sultation with the Secretary of Commerce, the Sec-
13 retary of Defense, the Secretary of Energy, and the
14 Federal Energy Regulatory Commission, shall sub-
15 mit to Congress a joint report—

16 (A) that addresses—

17 (i) the location of existing rights-of-
18 way and designated and de facto corridors
19 for oil and gas pipelines and electric trans-
20 mission and distribution facilities on Fed-
21 eral land; and

22 (ii) opportunities for additional oil
23 and gas pipeline and electric transmission
24 capacity within those rights-of-way and
25 corridors; and



1 (B) that includes a plan for making avail-
2 able, on request, to the appropriate Federal,
3 State, and local agencies, tribal governments,
4 and other persons involved in the siting of oil
5 and gas pipelines and electricity transmission
6 facilities Geographic Information System-based
7 information regarding the location of the exist-
8 ing rights-of-way and corridors and any planned
9 rights-of-way and corridors.

10 (2) CONSULTATIONS AND CONSIDERATIONS.—

11 In preparing the report, the Secretary of the Interior
12 and the Secretary of Agriculture shall consult
13 with—

14 (A) other agencies of Federal, State, tribal,
15 or local units of government, as appropriate;

16 (B) persons involved in the siting of oil
17 and gas pipelines and electric transmission fa-
18 cilities; and

19 (C) other interested members of the public.

20 (3) LIMITATION.—The Secretary of the Interior
21 and the Secretary of Agriculture shall limit the dis-
22 tribution of the report and Geographic Information
23 System-based information referred to in paragraph
24 (1) as necessary for national and infrastructure se-
25 curity reasons, if either Secretary determines that



1 the information may be withheld from public disclo-
2 sure under a national security or other exception
3 under section 552(b) of title 5, United States Code.

4 (b) CORRIDOR DESIGNATIONS.—

5 (1) 11 CONTIGUOUS WESTERN STATES.—Not
6 later than 2 years after the date of enactment of
7 this Act, the Secretary of Agriculture, the Secretary
8 of Commerce, the Secretary of Defense, the Sec-
9 retary of Energy, and the Secretary of the Interior,
10 in consultation with the Federal Energy Regulatory
11 Commission and the affected utility industries, shall
12 jointly—

13 (A) designate, under title V of the Federal
14 Land Policy and Management Act of 1976 (43
15 U.S.C. 1761 et seq.) and other applicable Fed-
16 eral laws, corridors for oil and gas pipelines and
17 electricity transmission and facilities on Federal
18 land in the eleven contiguous Western States
19 (as defined in section 103 of the Federal Land
20 Policy and Management Act of 1976 (43 U.S.C.
21 1702));

22 (B) perform any environmental reviews
23 that may be required to complete the designa-
24 tions of corridors for the facilities on Federal



1 land in the eleven contiguous Western States;
2 and

3 (C) incorporate the designated corridors
4 into—

5 (i) the relevant departmental and
6 agency land use and resource management
7 plans; or

8 (ii) equivalent plans.

9 (2) OTHER STATES.—Not later than 4 years
10 after the date of enactment of this Act, the Sec-
11 retary of Agriculture, the Secretary of Commerce,
12 the Secretary of Defense, the Secretary of Energy,
13 and the Secretary of the Interior, in consultation
14 with the Federal Energy Regulatory Commission
15 and the affected utility industries, shall jointly—

16 (A) identify corridors for oil and gas pipe-
17 lines and electricity transmission and distribu-
18 tion facilities on Federal land in the States
19 other than those described in paragraph (1);
20 and

21 (B) schedule prompt action to identify,
22 designate, and incorporate the corridors into
23 the land use plan.

24 (3) ONGOING RESPONSIBILITIES.—The Sec-
25 retary of Agriculture, the Secretary of Commerce,



1 the Secretary of Defense, the Secretary of Energy,
2 and the Secretary of the Interior, with respect to
3 lands under their respective jurisdictions, in con-
4 sultation with the Federal Energy Regulatory Com-
5 mission and the affected utility industries, shall es-
6 tablish procedures that—

7 (A) ensure that additional corridors for oil
8 and gas pipelines and electricity transmission
9 and distribution facilities on Federal land are
10 promptly identified and designated; and

11 (B) expedite applications to construct or
12 modify oil and gas pipelines and electricity
13 transmission and distribution facilities within
14 the corridors, taking into account prior analyses
15 and environmental reviews undertaken during
16 the designation of corridors.

17 (c) CONSIDERATIONS.—In carrying out this section,
18 the Secretaries shall take into account the need for up-
19 graded and new electricity transmission and distribution
20 facilities to—

21 (1) improve reliability;

22 (2) relieve congestion; and

23 (3) enhance the capability of the national grid
24 to deliver electricity.

25 (d) DEFINITION OF CORRIDOR.—



1 (1) IN GENERAL.—In this section and title V of
2 the Federal Land Policy and Management Act of
3 1976 (43 U.S.C. 1761 et seq.), the term “corridor”
4 means—

5 (A) a linear strip of land—

6 (i) with a width determined with con-
7 sideration given to technological, environ-
8 mental, and topographical factors; and

9 (ii) that contains, or may in the fu-
10 ture contain, 1 or more utility, communica-
11 tion, or transportation facilities;

12 (B) a land use designation that is
13 established—

14 (i) by law;

15 (ii) by Secretarial Order;

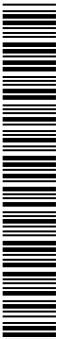
16 (iii) through the land use planning
17 process; or

18 (iv) by other management decision;

19 and

20 (C) a designation made for the purpose of
21 establishing the preferred location of compatible
22 linear facilities and land uses.

23 (2) SPECIFICATIONS OF CORRIDOR.—On des-
24 ignation of a corridor under this section, the center-



1 line, width, and compatible uses of a corridor shall
2 be specified.

3 **SEC. 351. CONSULTATION REGARDING ENERGY RIGHTS-OF-**
4 **WAY ON PUBLIC LAND.**

5 (a) MEMORANDUM OF UNDERSTANDING.—

6 (1) IN GENERAL.—Not later than 6 months
7 after the date of enactment of this Act, the Sec-
8 retary of Energy, in consultation with the Secretary
9 of the Interior, the Secretary of Agriculture, and the
10 Secretary of Defense with respect to lands under
11 their respective jurisdictions, shall enter into a
12 memorandum of understanding to coordinate all ap-
13 plicable Federal authorizations and environmental
14 reviews relating to a proposed or existing utility fa-
15 cility. To the maximum extent practicable under ap-
16 plicable law, the Secretary of Energy shall, to ensure
17 timely review and permit decisions, coordinate such
18 authorizations and reviews with any Indian tribes,
19 multi-State entities, and State agencies that are re-
20 sponsible for conducting any separate permitting
21 and environmental reviews of the affected utility fa-
22 cility.

23 (2) CONTENTS.—The memorandum of under-
24 standing shall include provisions that—

25 (A) establish—



1 (i) a unified right-of-way application
2 form; and

3 (ii) an administrative procedure for
4 processing right-of-way applications, in-
5 cluding lines of authority, steps in applica-
6 tion processing, and timeframes for appli-
7 cation processing;

8 (B) provide for coordination of planning
9 relating to the granting of the rights-of-way;

10 (C) provide for an agreement among the
11 affected Federal agencies to prepare a single
12 environmental review document to be used as
13 the basis for all Federal authorization decisions;
14 and

15 (D) provide for coordination of use of
16 right-of-way stipulations to achieve consistency.

17 (b) NATURAL GAS PIPELINES.—

18 (1) IN GENERAL.—With respect to permitting
19 activities for interstate natural gas pipelines, the
20 May 2002 document entitled “Interagency Agree-
21 ment On Early Coordination Of Required Environ-
22 mental And Historic Preservation Reviews Con-
23 ducted In Conjunction With The Issuance Of Au-
24 thorizations To Construct And Operate Interstate
25 Natural Gas Pipelines Certificated By The Federal



1 Energy Regulatory Commission” shall constitute
2 compliance with subsection (a).

3 (2) REPORT.—

4 (A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of this Act, and
6 every 2 years thereafter, agencies that are sig-
7 natories to the document referred to in para-
8 graph (1) shall transmit to Congress a report
9 on how the agencies under the jurisdiction of
10 the Secretaries are incorporating and imple-
11 menting the provisions of the document referred
12 to in paragraph (1).

13 (B) CONTENTS.—The report shall
14 address—

15 (i) efforts to implement the provisions
16 of the document referred to in paragraph
17 (1);

18 (ii) whether the efforts have had a
19 streamlining effect;

20 (iii) further improvements to the per-
21 mitting process of the agency; and

22 (iv) recommendations for inclusion of
23 State and tribal governments in a coordi-
24 nated permitting process.



1 (c) DEFINITION OF UTILITY FACILITY.—In this sec-
2 tion, the term “utility facility” means any privately, pub-
3 licly, or cooperatively owned line, facility, or system—

4 (1) for the transportation of—

5 (A) oil, natural gas, synthetic liquid fuel,
6 or gaseous fuel;

7 (B) any refined product produced from oil,
8 natural gas, synthetic liquid fuel, or gaseous
9 fuel; or

10 (C) products in support of the production
11 of material referred to in subparagraph (A) or
12 (B);

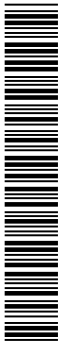
13 (2) for storage and terminal facilities in connec-
14 tion with the production of material referred to in
15 paragraph (1); or

16 (3) for the generation, transmission, and dis-
17 tribution of electric energy.

18 **SEC. 353. ELECTRICITY TRANSMISSION LINE RIGHT-OF-**
19 **WAY, CLEVELAND NATIONAL FOREST AND**
20 **ADJACENT PUBLIC LAND, CALIFORNIA.**

21 (a) ISSUANCE.—

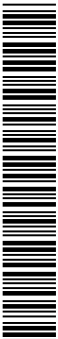
22 (1) IN GENERAL.—Not later than 60 days after
23 the completion of the environmental reviews under
24 subsection (c), the Secretary of the Interior and the
25 Secretary of Agriculture shall issue all necessary



1 grants, easements, permits, plan amendments, and
2 other approvals to allow for the siting and construc-
3 tion of a high-voltage electricity transmission line
4 right-of-way running approximately north to south
5 through the Trabuco Ranger District of the Cleve-
6 land National Forest in the State of California and
7 adjacent lands under the jurisdiction of the Bureau
8 of Land Management and the Forest Service.

9 (2) INCLUSIONS.—The right-of-way approvals
10 under paragraph (1) shall provide all necessary Fed-
11 eral authorization from the Secretary of the Interior
12 and the Secretary of Agriculture for the routing,
13 construction, operation, and maintenance of a 500-
14 kilovolt transmission line capable of meeting the
15 long-term electricity transmission needs of the region
16 between the existing Valley-Serrano transmission
17 line to the north and the Telega-Escondido trans-
18 mission line to the south, and for connecting to fu-
19 ture generating capacity that may be developed in
20 the region.

21 (b) PROTECTION OF WILDERNESS AREAS.—The Sec-
22 retary of the Interior and the Secretary of Agriculture
23 shall not allow any portion of a transmission line right-
24 of-way corridor identified in subsection (a) to enter any



1 identified wilderness area in existence as of the date of
2 enactment of this Act.

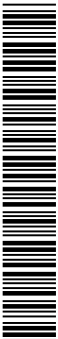
3 (c) ENVIRONMENTAL AND ADMINISTRATIVE RE-
4 VIEWS.—

5 (1) DEPARTMENT OF INTERIOR OR LOCAL
6 AGENCY.—The Secretary of the Interior, acting
7 through the Director of the Bureau of Land Man-
8 agement, shall be the lead Federal agency with over-
9 all responsibility to ensure completion of required
10 environmental and other reviews of the approvals to
11 be issued under subsection (a).

12 (2) NATIONAL FOREST SYSTEM LAND.—For the
13 portions of the corridor on National Forest System
14 lands, the Secretary of Agriculture shall complete all
15 required environmental reviews and administrative
16 actions in coordination with the Secretary of the In-
17 terior.

18 (3) EXPEDITIOUS COMPLETION.—The reviews
19 required for issuance of the approvals under sub-
20 section (a) shall be completed not later than 1 year
21 after the date of the enactment of this Act.

22 (d) OTHER TERMS AND CONDITIONS.—The trans-
23 mission line right-of-way shall be subject to such terms
24 and conditions as the Secretary of the Interior and the
25 Secretary of Agriculture consider necessary, based on the



1 environmental reviews under subsection (c), to protect the
2 value of historic, cultural, and natural resources under the
3 jurisdiction of the Secretary of the Interior or the Sec-
4 retary of Agriculture.

5 (e) PREFERENCE AMONG PROPOSALS.—The Sec-
6 retary of the Interior and the Secretary of Agriculture
7 shall give a preference to any application or preapplication
8 proposal for a transmission line right-of-way referred to
9 in subsection (a) that was submitted before December 31,
10 2002, over all other applications and proposals for the
11 same or a similar right-of-way submitted on or after that
12 date.

13 **SEC. 355. ENCOURAGING PROHIBITION OF OFF-SHORE**
14 **DRILLING IN THE GREAT LAKES.**

15 Congress encourages—

16 (1) the States of Illinois, Michigan, New York,
17 Pennsylvania, and Wisconsin to continue to prohibit
18 offshore drilling in the Great Lakes for oil and gas;
19 and

20 (2) the States of Indiana, Minnesota, and Ohio
21 to enact a prohibition of such drilling.

22 **SEC. 356. FINGER LAKES NATIONAL FOREST WITHDRAWAL.**

23 All Federal land within the boundary of Finger Lakes
24 National Forest in the State of New York is withdrawn
25 from—



1 (1) all forms of entry, appropriation, or disposal
2 under the public land laws; and

3 (2) disposition under all laws relating to oil and
4 gas leasing.

5 **SEC. 358. FEDERAL COALBED METHANE REGULATION.**

6 Any State currently on the list of Affected States es-
7 tablished under section 1339(b) of the Energy Policy Act
8 of 1992 (42 U.S.C. 13368(b)) shall be removed from the
9 list if, not later than 3 years after the date of enactment
10 of this Act, the State takes, or prior to the date of enact-
11 ment has taken, any of the actions required for removal
12 from the list under such section 1339(b).

13 **Subtitle D—Refining Revitalization**

14 **SEC. 371. SHORT TITLE.**

15 This subtitle may be cited as the “United States Re-
16 finery Revitalization Act of 2005”.

17 **SEC. 372. FINDINGS.**

18 Congress finds the following:

19 (1) It serves the national interest to increase
20 petroleum refining capacity for gasoline, heating oil,
21 diesel fuel, jet fuel, kerosene, and petrochemical
22 feedstocks wherever located within the United
23 States, to bring more supply to the markets for use
24 by the American people. Nearly 50 percent of the
25 petroleum in the United States is used for the pro-



1 duction of gasoline. Refined petroleum products have
2 a significant impact on interstate commerce.

3 (2) United States demand for refined petroleum
4 products currently exceeds the country's petroleum
5 refining capacity to produce such products. By
6 2025, United States gasoline consumption is pro-
7 jected to rise from 8,900,000 barrels per day to
8 12,900,000 barrels per day. Diesel fuel and home
9 heating oil are becoming larger components of an in-
10 creasing demand for refined petroleum supply. With
11 the increase in air travel, jet fuel consumption is
12 projected to be 789,000 barrels per day higher in
13 2025 than today.

14 (3) The petroleum refining industry is oper-
15 ating at 95 percent of capacity. The United States
16 is currently importing 5 percent of its refined petro-
17 leum products and because of the stringent United
18 States gasoline and diesel fuel specifications, few
19 foreign refiners can produce the clean fuels required
20 in the United States and the number of foreign sup-
21 pliers that can produce United States quality gaso-
22 line is decreasing.

23 (4) Refiners are subject to significant environ-
24 mental and other regulations and face several new
25 Clean Air Act requirements over the next decade.



1 New Clean Air Act requirements will benefit the en-
2 vironment but will also require substantial capital
3 investment and additional government permits.

4 (5) No new refinery has been built in the
5 United States since 1976 and many smaller domes-
6 tic refineries have become idle since the removal of
7 the Domestic Crude Oil Allocation Program and be-
8 cause of regulatory uncertainty and generally low re-
9 turns on capital employed. Today, the United States
10 has 149 refineries, down from 324 in 1981. Restora-
11 tion of recently idled refineries alone would amount
12 to 483,570 barrels a day in additional capacity, or
13 approximately 3.3 percent of the total operating ca-
14 pacity.

15 (6) Refiners have met growing demand by in-
16 creasing the use of existing equipment and increas-
17 ing the efficiency and capacity of existing plants.
18 But refining capacity has begun to lag behind peak
19 summer demand.

20 (7) Heavy industry and manufacturing jobs
21 have closed or relocated due to barriers to invest-
22 ment, burdensome regulation, and high costs of op-
23 eration, among other reasons.

24 (8) Because the production and disruption in
25 supply of refined petroleum products has a signifi-



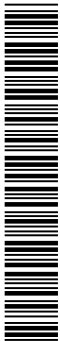
1 cant impact on interstate commerce, it serves the
2 national interest to increase the domestic refining
3 operating capacity.

4 (10) More regulatory certainty for refinery own-
5 ers is needed to stimulate investment in increased
6 refinery capacity and required procedures for Fed-
7 eral, State, and local regulatory approvals need to be
8 streamlined to ensure that increased refinery capac-
9 ity can be developed and operated in a safe, timely,
10 and cost-effective manner.

11 (11) The proposed Yuma Arizona Refinery, a
12 grassroots refinery facility, which only recently re-
13 ceived its Federal air quality permit after 5 years
14 under the current regulatory process, and is just
15 now beginning its environmental impact statement
16 and local permitting process, serves as an example
17 of the obstacles a refiner would have to overcome to
18 reopen an idle refinery.

19 **SEC. 373. PURPOSE.**

20 The purpose of this subtitle is to encourage the ex-
21 pansion of the United States refining capacity by pro-
22 viding an accelerated review and approval process of all
23 regulatory approvals for certain idle refineries and lending
24 corresponding legal and technical assistance to States with



1 resources that may be inadequate to meet such permit re-
2 view demands.

3 **SEC. 374. DESIGNATION OF REFINERY REVITALIZATION**
4 **ZONES.**

5 Not later than 90 days after the date of enactment
6 of this Act, the Secretary shall designate as a Refinery
7 Revitalization Zone any area—

8 (1) that—

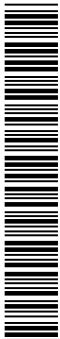
9 (A) has experienced mass layoffs at manu-
10 facturing facilities, as determined by the Sec-
11 retary of Labor; or

12 (B) contains an idle refinery; and

13 (2) that has an unemployment rate that exceeds
14 the national average by at least 10 percent of the
15 national average, as set by the Department of
16 Labor, Bureau of Labor Statistics, at the time of
17 the designation as a Refinery Revitalization Zone.

18 **SEC. 375. MEMORANDUM OF UNDERSTANDING.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 date of enactment of this Act, the Secretary shall enter
21 into a memorandum of understanding with the Adminis-
22 trator for the purposes of this subtitle. The Secretary and
23 the Administrator shall each designate a senior official re-
24 sponsible for, and dedicate sufficient other staff and re-
25 sources to ensure, full implementation of the purposes of



1 this subtitle and any regulations enacted pursuant to this
2 subtitle.

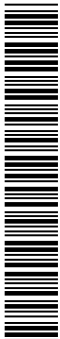
3 (b) ADDITIONAL SIGNATORIES.—The Governor of
4 any State, and the appropriate representative of any In-
5 dian Tribe, with jurisdiction over a Refinery Revitalization
6 Zone, as designated by the Secretary pursuant to section
7 374, may be signatories to the memorandum of under-
8 standing under this section.

9 **SEC. 376. STATE ENVIRONMENTAL PERMITTING ASSIST-**
10 **ANCE.**

11 Not later than 30 days after a Revitalization Pro-
12 gram Qualifying State becomes a signatory to the memo-
13 randum of understanding under section 375(b)—

14 (1) the Secretary shall designate one or more
15 employees of the Department with expertise relating
16 to the siting and operation of refineries to provide
17 legal and technical assistance to that Revitalization
18 Program Qualifying State; and

19 (2) the Administrator shall designate, to pro-
20 vide legal and technical assistance for that Revital-
21 ization Program Qualifying State, one or more em-
22 ployees of the Environmental Protection Agency
23 with expertise on regulatory issues, relating to the
24 siting and operation of refineries, with respect to
25 each of—



1 (A) the Clean Air Act (42 U.S.C. 7401 et
2 seq.);

3 (B) the Federal Water Pollution Control
4 Act (33 U.S.C. 1251 et seq.);

5 (C) the Safe Drinking Water Act (42
6 U.S.C. 300f et seq.);

7 (D) the Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9601 et seq.);

10 (E) the Solid Waste Disposal Act (42
11 U.S.C. 6901 et seq.);

12 (F) the Toxic Substances Control Act (15
13 U.S.C. 2601 et seq.);

14 (G) the National Historic Preservation Act
15 (16 U.S.C. 470 et seq.); and

16 (H) the National Environmental Policy Act
17 of 1969 (42 U.S.C. 4321 et seq.).

18 **SEC. 377. COORDINATION AND EXPEDITIOUS REVIEW OF**
19 **PERMITTING PROCESS.**

20 (a) DEPARTMENT OF ENERGY AS LEAD AGENCY.—

21 Upon written request of a prospective applicant for Fed-
22 eral authorization for a refinery facility in a Refinery Revi-
23 talization Zone, the Department shall act as the lead Fed-
24 eral agency for the purposes of coordinating all applicable
25 Federal authorizations and environmental reviews of the



1 refining facility. To the maximum extent practicable under
2 applicable Federal law, the Secretary shall coordinate this
3 Federal authorization and review process with any Indian
4 Tribes and State and local agencies responsible for con-
5 ducting any separate permitting and environmental re-
6 views of the refining facility.

7 (b) SCHEDULE.—

8 (1) IN GENERAL.—The Secretary, in coordina-
9 tion with the agencies with authority over Federal
10 authorizations and, as appropriate, with Indian
11 Tribes and State and local agencies that are willing
12 to coordinate their separate permitting and environ-
13 mental reviews with the Federal authorizations and
14 environmental reviews, shall establish a schedule
15 with prompt and binding intermediate and ultimate
16 deadlines for the review of, and Federal authoriza-
17 tion decisions relating to, refinery facility siting and
18 operation.

19 (2) PREAPPLICATION PROCESS.—Prior to estab-
20 lishing the schedule, the Secretary shall provide an
21 expeditious preapplication mechanism for applicants
22 to confer with the agencies involved and to have
23 each agency communicate to the prospective appli-
24 cant within 60 days concerning—



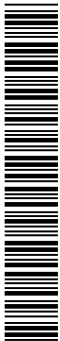
1 (A) the likelihood of approval for a poten-
2 tial refinery facility; and

3 (B) key issues of concern to the agencies
4 and local community.

5 (3) SCHEDULE.—The Secretary shall consider
6 the preapplication findings under paragraph (2) in
7 setting the schedule and shall ensure that once an
8 application has been submitted with such informa-
9 tion as the Secretary considers necessary, all permit
10 decisions and related environmental reviews under
11 all applicable Federal laws shall be completed within
12 6 months or, where circumstances require otherwise,
13 as soon as thereafter practicable.

14 (c) CONSOLIDATED ENVIRONMENTAL REVIEW.—

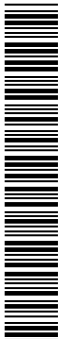
15 (1) LEAD AGENCY.—In carrying out its role as
16 the lead Federal agency for environmental review,
17 the Department shall coordinate all applicable Fed-
18 eral actions for complying with the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
20 seq.) and shall be responsible for preparing any envi-
21 ronmental impact statement required by section
22 102(2)(C) of that Act (42 U.S.C. 4332(2)(C)) or
23 such other form of environmental review as is re-
24 quired.



1 (2) CONSOLIDATION OF STATEMENTS.—In car-
2 rying out paragraph (1), if the Department deter-
3 mines an environmental impact statement is re-
4 quired, the Department shall prepare a single envi-
5 ronmental impact statement, which shall consolidate
6 the environmental reviews of all Federal agencies
7 considering any aspect of the project covered by the
8 environmental impact statement.

9 (d) OTHER AGENCIES.—Each Federal agency consid-
10 ering an aspect of the siting or operation of a refinery
11 facility in a Refinery Revitalization Zone shall cooperate
12 with the Department and comply with the deadlines estab-
13 lished by the Department in the preparation of any envi-
14 ronmental impact statement or such other form of review
15 as is required.

16 (e) EXCLUSIVE RECORD.—The Department shall,
17 with the cooperation of Federal and State administrative
18 agencies and officials, maintain a complete consolidated
19 record of all decisions made or actions taken by the De-
20 partment or by a Federal administrative agency or officer
21 (or State administrative agency or officer acting under
22 delegated Federal authority) with respect to the siting or
23 operation of a refinery facility in a Refinery Revitalization
24 Zone. Such record shall be the exclusive record for any



1 Federal administrative proceeding that is an appeal or re-
2 view of any such decision made or action taken.

3 (f) APPEALS.—In the event any agency has denied
4 a Federal authorization required for a refinery facility in
5 a Refinery Revitalization Zone, or has failed to act by a
6 deadline established by the Secretary pursuant to sub-
7 section (b) for deciding whether to issue the Federal au-
8 thorization, the applicant or any State in which the refin-
9 ery facility would be located may file an appeal with the
10 Secretary. Based on the record maintained under sub-
11 section (e), and in consultation with the affected agency,
12 the Secretary may then either issue the necessary Federal
13 authorization with appropriate conditions, or deny the ap-
14 peal. The Secretary shall issue a decision within 60 days
15 after the filing of the appeal. In making a decision under
16 this subsection, the Secretary shall comply with applicable
17 requirements of Federal law, including each of the laws
18 referred to in section 376(2)(A) through (H). Any judicial
19 appeal of the Secretary's decision shall be to the United
20 States Court of Appeals for the District of Columbia.

21 (g) CONFORMING REGULATIONS.—Not later than 6
22 months after the date of enactment of this Act, the Sec-
23 retary shall issue any regulations necessary to implement
24 this subtitle.



1 **SEC. 378. COMPLIANCE WITH ALL ENVIRONMENTAL REGU-**
2 **LATIONS REQUIRED.**

3 Nothing in this subtitle shall be construed to waive
4 the applicability of environmental laws and regulations to
5 any refinery facility.

6 **SEC. 379. DEFINITIONS.**

7 For the purposes of this subtitle, the term—

8 (1) “Administrator” means the Administrator
9 of the Environmental Protection Agency;

10 (2) “Department” means the Department of
11 Energy;

12 (3) “Federal authorization” means any author-
13 ization required under Federal law (including the
14 Clean Air Act, the Federal Water Pollution Control
15 Act, the Safe Drinking Water Act, the Comprehen-
16 sive Environmental Response, Compensation, and
17 Liability Act of 1980, the Solid Waste Disposal Act,
18 the Toxic Substances Control Act, the National His-
19 toric Preservation Act, and the National Environ-
20 mental Policy Act of 1969) in order to site, con-
21 struct, upgrade, or operate a refinery facility within
22 a Refinery Revitalization Zone, including such per-
23 mits, special use authorizations, certifications, opin-
24 ions, or other approvals as may be required, whether
25 issued by a Federal, State, or local agency;



1 (4) “idle refinery” means any real property site
2 that has been used at any time for a refinery facility
3 since December 31, 1979, that has not been in oper-
4 ation after April 1, 2005;

5 (5) “refinery facility” means any facility de-
6 signed and operated to receive, unload, store, proc-
7 ess and refine raw crude oil by any chemical or
8 physical process, including distillation, fluid catalytic
9 cracking, hydrocracking, coking, alkylation,
10 etherification, polymerization, catalytic reforming,
11 isomerization, hydrotreating, blending, and any com-
12 bination thereof;

13 (6) “Revitalization Program Qualifying State”
14 means a State or Indian Tribe that—

15 (A) has entered into the memorandum of
16 understanding pursuant to section 375(b); and

17 (B) has established a refining infrastruc-
18 ture coordination office that the Secretary finds
19 will facilitate Federal-State cooperation for the
20 purposes of this subtitle; and

21 (7) “Secretary” means the Secretary of Energy.

